



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

Date Introduced:	2/19/02	Bill No:	AB 2061
Tax:	Transactions and Use	Author:	Salinas
Board Position:		Related Bills:	SB 1889 (Johannessen)

BILL SUMMARY

This bill would authorize the City of Salinas, subject to majority approval by the city council and two-thirds voter approval, to levy a transactions and use tax at a rate of $\frac{1}{4}$ percent.

ANALYSIS

Current Law

The Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at $1\frac{1}{4}$ percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the $1\frac{1}{4}$ percent local tax.

Under the Bradley-Burns Law, the $\frac{1}{4}$ percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for general purposes. Cities are authorized to impose a sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed $1\frac{1}{4}$ percent.

Under the existing Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all sections of the Transactions and Use Tax Law, the maximum allowable combined rate of transactions and use taxes levied in any county may not exceed $1\frac{1}{2}$ percent, with the exception of the City and County of San Francisco and the County of San Mateo, whose combined rates may not exceed $1\frac{3}{4}$ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits a county to form a special purpose authority which may levy a transactions and use tax at the rate of either $\frac{1}{4}$ or $\frac{1}{2}$ percent, with majority voter approval. Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a transactions and use tax rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent for purposes of funding drug abuse prevention, crime prevention, health care services, and public education upon majority

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voter approval. (Board legal staff have taken the position that a special purpose authority may only impose a transactions and use tax if the authority meets the requirements of the section and obtains approval of two-thirds, rather than a majority vote, of the qualified electors in the district.) Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of $\frac{1}{8}$ or $\frac{1}{4}$ percent for purposes of funding public libraries, upon two-thirds voter approval.

In addition to county authorization to levy a tax, through specific legislation, some cities have received authorization to impose a transactions and use tax. The following cities are so authorized: Avalon, Calexico, Clearlake, Clovis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Sebastopol, Truckee, West Sacramento, Woodland, and the town of Yucca Valley (the cities of Avalon, Calexico, Clearlake, Placerville, the Town of Truckee, and Woodland are currently imposing a tax). The City of Fresno and its sphere of influence had imposed a tax for the period 7/1/93 through 3/21/96, however, this tax ceased to be operative, as it was declared unconstitutional in *Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a.

The City of Salinas is located in Monterey County, which imposes no additional countywide transactions and use taxes. Under the Bradley-Burns Law, Salinas imposes a sales and use tax rate of 1.0 percent, which is credited against Monterey County's one percent rate. Therefore, the current state and local tax rate throughout all of Monterey County is 7.25 percent.

The Board performs all functions in the administration and operations of the ordinances imposing the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Taxes and all local jurisdictions imposing these local taxes are required to contract with the Board for administration of these taxes.

In General

Many special districts in California impose transactions and use taxes that are administered by the Board. In Sacramento County, for example, a transactions and use tax of $\frac{1}{2}$ percent is levied by the Sacramento County Transportation Authority for purposes of funding transportation projects. The first special tax district of this sort was created in 1970 when voters approved the San Francisco Bay Area Rapid Transit District to pay for bonds and notes issued for construction of the BART system. The tax rate in these special taxing districts varies from district to district. Currently, the counties of Fresno, Nevada, Solano, and Stanislaus impose the lowest transactions and use tax rate of $\frac{1}{8}$ percent. San Francisco City and County has the highest combined transactions and use tax rate of $1\frac{1}{4}$ percent. The remaining districts impose rates in between these ranges.

Proposed Law

This bill would add Chapter 2.67 (commencing with Section 7286.28) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the City of Salinas to impose a transactions and use tax rate of $\frac{1}{4}$ percent, upon majority approval of the city council and subsequent two-thirds majority voter approval. The net revenues derived from the proposed tax would be exclusively expended for the provision of identifiable capital

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facilities, furnishings, and equipment. The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This bill also includes findings and declarations that a special law is necessary because of the uniquely difficult fiscal pressures being experienced by the City of Salinas in providing capital facilities including, but not limited to, the facilities of the police department, library, municipal pool, gymnasium, and senior center.

Background

There were several bills during last year's legislative session that would authorize cities or special districts to impose transactions and use taxes. AB 863 (Ch. 263, Stats. 2001) authorizes the City of West Sacramento, subject to two-thirds or majority voter approval, to levy a transactions and use tax at a rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent. SB 685 (Ch. 474, Stats. 2001) authorizes the Fresno County Transportation Authority, subject to two-thirds voter approval, to levy a transactions and use tax at a rate of $\frac{1}{2}$ percent for an additional 30 years to finance regional transportation improvements. SB 1186 (Ch. 292, Stats. 2001) modifies the vote requirement for the existing City of Sebastopol transactions and use tax authority from a two-thirds to a majority approval by voters. SB 1187 (Ch. 285, Stats. 2001) authorizes Fresno County to establish a special purpose authority for the support of zoos, zoological facilities, and related zoological purposes in Fresno County and may impose a transactions and use tax of 0.10 percent, subject to two-thirds voter approval, to fund those purposes. The Board took a neutral position on each of these bills.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the City of Salinas to enable the city to raise additional revenue for identifiable capital facilities, furnishings, and equipment.
2. **Suggested technical amendment.** This bill provides that the City of Salinas may levy a tax if an ordinance or resolution proposing that tax is approved by the city council. However, current law requires that an ordinance be passed, not a resolution, for the imposition of a transactions and use tax. It is recommended that the resolution reference in the bill be deleted.
3. **Proliferation of locally-imposed taxes creates problems.** In 1955, the Bradley-Burns Uniform Local Sales and Use Tax Law was enacted in an effort to put an end to the problems associated with differences in the amount of sales tax levied among the various communities of the state. The varying rates between cities prior to the enactment of this uniform law created a very difficult situation for retailers, confused consumers, and created fiscal problems for the cities and counties. A retailer was faced with many situations that complicated tax collection, reporting, auditing, and accounting. Because of the differences in taxes between areas, a retailer was affected competitively. Many retailers advertised "no city sales tax if you buy in this area." This factor distorted what would otherwise have been logical economic advantages or disadvantages. With the enactment of the Bradley-Burns Law, costs to the retailer were reduced, and illogical competitive situations were corrected.

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The Transactions and Use Tax Law is becoming as complicated as the local tax laws were before the enactment of the Bradley-Burns Law, and retailers and consumers are again experiencing the confusion caused by varying tax rates in varying communities. Prior to 1991, all districts imposing a transactions and use tax had boundaries equal to their respective county lines. In 1991, legislation was enacted for the first time to allow a city to impose a transactions and use tax. That city was Calexico. Currently, fifteen cities have gained such authorization. The proliferation of tax rates dependent on the area in which the sale is made compounds compliance problems for retailers doing business in several districts and makes record-keeping more complex, resulting in a larger margin of error and increased Board administrative costs.

4. **Multiplicity of tax rates is gaining national attention.** The Streamlined Sales Tax Project is a nationwide effort to simplify sales and use taxes in all states. Congress is currently reviewing this and other sales tax simplification efforts. Some proposals would expand states' rights to impose a use tax collection duty in exchange for certain simplifications, including the imposition of a single statewide sales and use tax rate. Allowing more cities to impose transactions and use taxes moves California away from national efforts concerning sales and use tax simplicity.
5. **Legislature should consider revising the Transactions and Use Tax Law to parallel the Bradley-Burns Uniform Local Tax Law.** There are over 470 cities in California. As more cities gain authorization to levy their own local taxes, the administration of these taxes becomes exceedingly complicated. Considering the increasing number of measures approved by the Legislature authorizing cities to impose transactions and use taxes, strong consideration should be given to revising the Transactions and Use Tax Law so that its provisions parallel the Bradley-Burns Law. In that way, all taxable sales attributable to a retailer located within that special taxing district would be subject to the district tax, regardless of where the property is delivered (unlike the state and Bradley-Burns tax, the transactions tax does not apply to gross receipts from the sale of property to be used outside the district when the property is shipped to a point outside the district). This would minimize the problems associated with districts that are not coterminous with county boundaries. However, retailers in varying communities with various tax rates could continue to be affected competitively.
6. **City transactions and use taxes may limit county flexibility.** The Transactions and Use Tax Law places a cap on the total transactions and use tax rate that may be levied within a county. The limit is 1½%, except in the City and County of San Francisco and the County of San Mateo, as noted previously. A city-wide transactions and use tax counts against the cap, thus limiting the fiscal options of the county.
7. **It may not be cost effective for some cities to impose a transactions and use tax.** The Board's total administrative costs are driven by the workload involved in processing returns, and are relatively fixed. The cost of administering these taxes is not related to the revenue generated by the tax. However, the ratio of such costs to the amount of revenue generated by a tax varies widely. Therefore, if the tax rate or volume is very low, the ratio will be high. Revenue and Taxation Code Section 7273,

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as amended by Chapter 890, Statutes of 1998 (AB 836, Sweeney, et al.) and again by Chapter 865, Statutes of 1999 (SB 1302, Rev & Tax Committee) requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transaction and use tax rate of one-quarter of 1 percent is capped at 3 percent of the revenue generated. If the City of Salinas were to impose this tax, it is not expected that the administrative costs would exceed the cap.

In some local taxing jurisdictions, administrative costs do exceed the cap. As a point of perspective, the Board's estimated 2001-02 administrative costs assessments to the existing special taxing jurisdictions range between \$4,000 (City of Avalon Municipal Hospital and Clinic) and \$6.5 million (Los Angeles Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual costs exceeding the amount the Board may charge would impact the General Fund. For 2001-02, it is estimated that the State General Fund will absorb \$1.5 million as a result of the cap limitations on administrative cost recovery.

8. **Related Legislation.** Senate Bill 1889 (Johannessen) would authorize the City of Redding, subject to voter approval, to levy a transactions and use tax.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes the City of Salinas to impose a tax. However, if the city passed an ordinance, it would be required to contract with the Board to perform functions related to the ordinance, and reimburse the Board for its preparation costs to administer the ordinance as well as the ongoing costs for the Board's services in actually administering the ordinance. Based on the Board's experience with a similar special-purpose tax in City of Avalon, it is estimated that the one-time preparatory costs would be approximately \$15,000. The estimated ongoing administrative costs would range from \$56,000 to a maximum capped amount (see Comment 7) of \$129,000 (\$4.3 million x 3%). As noted in Comment 7, if the City of Salinas were to impose this tax, it is not expected that the administrative costs would exceed the cap.

REVENUE ESTIMATE

Taxable sales in the City of Salinas during the year 2000 was \$1.7 billion. A 0.25% transactions and use tax in the City of Salinas would raise an estimated \$4.3 million annually.

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